HIGH COURT OF UTARANCHAL AT NAINITAL

Writ Petition No. 911 (MS) of 2004

Smt. Amrawati ..... Petitioner

VS

Collector, Haridwar
And others. ..... Respondents

Counsel for the petitioner Sh. Manoj Tiwari
Standing Counsel for the respondents.

Dated:- 24-9-2004

Hon'ble Rajesh Tandon J.

Heard Sh. Manoj Tiwari learned counsel for the petitioner and Standing Counsel for the respondents.

By the present writ petition the petitioner has prayed for quashing the order dt. 16-9-2004 passed by the respondent No.2.

Brief facts giving rise to the present writ petition are that the petitioner is a member of Scheduled Caste Category who contested the Election for Gram Pradhan in the year 2000. Petitioner was declared elected after counting the votes by a martin of more than 150 votes.

It is stated that during the tenure of the petitioner as Gram Pradhan, there was a all round development due to which certain persons became jealous against the petitioner. It caused the compaign against the petitioner. Such A notice dt. 28-8-2004 for motion no-confidence motion was given against the petitioner.

Respondent No.2 after scrutinizing the signatures contained in the complaint found that notice for no-confidence

motion contain only 430 signature/ thumb impressions as against 3186 voters. Respondent No. 2 after considering all the facts rejected the notice of no confidence motion by order dt. 3-9-2004.

Again a notice was sent, the copy of the notice was also sent to Hon'ble Panchayati Raj Minister Government of Uttaranchal, Dehradun. In the said notice a request was made to hold the inquiry into the affairs of village peetpur.

Respondent No.1has accepted the notice of no-confidence motion vide order dt. 16-9-2004. Petitioner has sent a representation dt. 16-9-2004 to respondent No.2 stating that certain persons have earlier gave the notice of no confidence motion which was rejected after scrutiny and the same group of persons have again submitted the notice of no confidence motion with forged signature.

Mr. Manoj Tiwari learned counsel for the petitioner has submitted that in order carry out no-confidence motion, the resolution of no confidence should be in accordance with Panchayat Raj Act and Rules of 1947.

Counsel for the petitioner has further submitted that as will appear from the impugned order dt. 16-9-2004 that the respondent No.2 has not examined the signatures of the members who have signed the notice and as such the same has not been made in accordance with Rule 33-B of the U.P. Panchayat Rule 1947.

Rule 33-B provides the procedure for removal of Pradhan or Up-Pradhan. It reads as under:-

> *"A written notice of the intention to move a motion for removal of the Pradhan or Up-pradhan under*

Section 14 of the act shall be necessary. It shall be signed by not less than one half of the total number of members of the Gram Panchayat and shall state the reasons for moving the motion and it shall be delivered in persons by at least three members singing the notice to the District Panchayat Raj Officer. Before proceeding further on the notice, the District Panchayat Raj Officer shall satisfy himself regarding genuineness of signature of the member signing the notice."

Section 14 of the U.P. Panchayat Raj Act reads as under:-

"Removal of Pradhan(1) The Gram Sabha may at a meeting specially convened for the purpose and of which at least 15 days previous notice shall be given, remove the pradhan by a majority of two-thirds of the members of the Gram Sabha present and voting."

A perusal of the rule provides that it shall be signed by not less than one-half of the total number of members of the Gram Panchayat and shall state the reason for moving the motion and it shall be delivered in persons by at least three members signing the notice to the District Panchayat raj Act.

Counsel for the petitioner has submitted that in order to justify no-confidence against the petitioner the District Panchayat Raj Officer is to satisfy himself regarding genuineness of the signatures contained in the notice and only then the meeting can be convened for passing the removal of the Pradhan in accordance with Section 14 of the U.P. Panchayat Raj Act 1947.

Standing Counsel appearing for the respondents has submitted that present writ petition is premature and the meeting of the no-confidence motion, still has to be convened on the date fixed i.e. 8th October 2004 and as such the present writ petition is not maintainable at present.

He has further submitted that so far as the formalities as contained under Rule 33-B of the U.P. Panchayat Raj Act, 1947 are concerned, the District Panchayat Raj Officer before convening meeting shall follw the Procedure Prescribed under Rule 33-B of the U.P. Panchayat Raj Act 1947.

Both the parties have agreed that before convening the meeting, the District Panchayat Raj Officer shall satisfy himself regarding the genuineness of signatures and notice and further as to whether the same has been signed by not less than one-half member of the Gram Panchayat and also reasons for removing the motion against the petitioner.

The District Panchayat Raj Officer is directed to comply the order of the Prescribed Authority under Rule 33-B framed under the U.P. Panchayat Raj Act 1947 before convening the meeting for no-confidence motion against the petitioner under Section 14 of the U.P. Panchayat Raj Act 1947.

Subject to the aforesaid observation, the writ petition is disposed of. No order as to costs.

Copy may be issue within 24hrs.

Dated:- 24-9-2004 **(RAJESH TANDON J.)**

M.K.